

STAFF REPORT  
ENERGY DIVISION  
July 9, 2002

**SUBJECT: Resource Technology Corporation operation of Pontiac Qualified Solid Waste Energy Facility**

**Summary and Recommendation:**

In an order entered on October 8, 1997 in Docket No. 97-0034, the Commission determined that the facility located in Pontiac, Illinois and owned and operated by Resource Technology Corporation ("RTC") met the requirements to be a Qualified Solid Waste to Energy Facility ("QSWEF").<sup>1</sup> The Commission's Order finds that the Pontiac facility "will have a capacity of 10MW." (Order p. 6) Without subsequent Commission review or approval, RTC has expanded its generation capacity at the Pontiac facility to approximately 30 MW, well in excess of the amount authorized in the Commission's Order. Staff has strong reason to believe that at least one of the new generating units is fueled primarily (if not entirely) by combustion of natural gas, as purchased via a customer account commenced with Nicor Gas in 2001. Moreover, Staff has strong reason to believe that RTC Pontiac has sold electricity that is both in excess of the amount authorized by the Commission and that is fueled by natural gas to the local utility for the retail rate, as defined in Section 8-403.1(c) of the Public Utilities Act ("PUA"). Staff believes that the sale of electricity fueled by natural gas combustion took place between December 2001 and May 2002. In addition, it is possible that the sale of electricity fueled by natural gas at the Pontiac site continues today, but at levels below the 10 MW granted in the Order. The retail rate is intended to be applicable to electricity generated by QSWEFs whose primary fuel is landfill methane gas; selling at the retail rate electricity fueled by natural gas combustion violates 8-403.1(c) of the PUA. Based upon these concerns, Staff recommends that the Commission investigate RTC Pontiac for the purposes of determining whether RTC is in compliance with the Order in 97-0034, and whether RTC is in violation of any other applicable provisions of Section 8-403.1 of the PUA.

**RTC Pontiac's Electrical Output:**

RTC Pontiac was determined to be a QSWEF for 10 MW of capacity in Docket No. 97-0034. Staff has verified that RTC has installed one Solar<sup>2</sup> Titan Turbine and three Solar Taurus Turbines at the Pontiac site since December 2001. (Illinois Environmental Protec-

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<sup>1</sup> Commission determination of QSWEF status is pursuant to Section 8-403.1 of the Public utilities Act (PUA), and is administered through the Commission's rules in Part 445 of the 83 Illinois Administrative Code.

<sup>2</sup> Solar Turbines is a subsidiary of Caterpillar, Inc., that specializes in gas turbine generator systems. Solar Turbines run on fossil fuel and landfill methane, and the company name should not be confused with renewable solar power.

tion Agency Joint Construction and Operating Permit, Issued May 13, 2002) The total amount of generating capacity of the four Solar turbines is approximately 30 MW.

In December 2001, Network Electric, the contractor for RTC's Pontiac Site, commenced service as a natural gas customer with Nicor at the Pontiac site. Network Electric is classified as a large volume gas transportation customer on Nicor's system.

After reviewing monthly billings provided by Nicor, Staff believes that the Pontiac site is using natural gas to power at least one of the electric generating units owned by RTC. The Solar Titan Turbine is rated at about 13 MW.

Using the monthly gas bills received from Nicor and the Solar Turbine's heat rate conversion factor, Staff believes that RTC Pontiac may have generated a substantial amount, in some months over 50% and in more recent months over 60%, of its electrical output from December 2001 through May 2002 through the use of natural gas as its primary fuel source.

Staff recognizes that there are parasitic loads at QSWEF sites, but the volumes of gas consumed at the RTC Pontiac site and the fact that the electrical output of the facility has increased by dramatic proportions give cause for serious concern. In January 2001, RTC Pontiac sold 63,931 kWhs to ComEd. In January 2002, this amount increased to 11,955,492 kWhs. In February 2001, RTC Pontiac sold 439,354 kWhs to ComEd. In February 2002, this amount increased to 14,353,884 kWhs. (ComEd's Year End 2001 report of Purchases from QSWEFs, March 25, 2002) The Pontiac site is certified for 10 MW of generation: if the generator(s) ran at 10 MW for 24 hours, seven days per week for an entire 30 day month, then the maximum electrical output that RTC Pontiac could sell to ComEd is 7,200,000 kWhs. From a review of the actual amounts that RTC Pontiac has sold to ComEd in 2001, it appears that RTC Pontiac's maximum monthly output sold to ComEd was 6,101,114 kWhs in November 2001. (ComEd's Year End 2001 report of Purchases from QSWEFs, March 25, 2002) From a review of the actual amounts that RTC Pontiac sold to ComEd in 2002, it appears that RTC's minimum output sold to ComEd was 10,942,308 kWhs in April 2002, and the maximum output sold to ComEd was 14,353,884 kWhs in February 2002. (ComEd's Report of Purchases from QSWEFs, June 7, 2002)

### **RTC Pontiac's Primary Fuel Source for the Generation of Electricity:**

Energy Policy is concerned that RTC Pontiac may be in violation of Section 8-403.1 of the PUA. Section 8-403.1 (b) of the Act refers to a QSWEF as a facility "determined by the Illinois Commerce Commission...to use landfill methane as its primary fuel..." (emphasis added.) Section 8-403.1(c) sets forth that an electric utility shall contract to purchase electricity from QSWEFs fueled by landfill generated methane (10 years for a regular landfill and 20 years for one owned by a forest preserve district.)

Although Section 8-403.1(b) of the PUA refers to landfill methane as the QSWEF's primary fuel source, it does not follow that the QSWEF is entitled to unrestricted use of fossil fuels to generate electricity to sell at the retail rate. Furthermore, FERC regulations place restrictions on the use of oil, natural gas, and coal by a Qualifying Facility

(QF) to very specific purposes, e.g., Section 292.204(b)(2) of FERC's regulations governing QFs sets forth that:

Use of oil, natural gas, and coal by a facility, under section 3(17)(B) of the federal Power Act is limited to the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and the minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages, and emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages. Such fuel use may not, in the aggregate, exceed 25 percent of the total energy input during the 12-month period beginning with the date the facility first produces electric energy and any calendar year subsequent to the year in which the facility first produces electricity.

Deviation from the use of natural gas for the specific purposes set forth in FERC's regulations would result in the facility's non-compliance with FERC's QF requirements. Moreover, in order for a facility to be granted and maintain QSWEF status under Illinois law, it must achieve and maintain its status as a QF under federal law and FERC rules. Deviation from the use of natural gas for the specific purposes set forth in FERC's regulations would result in the facility's non-compliance with Section 8-403.1(b) of the PUA. Staff has strong reason to believe that at least one of the Solar Turbines at the Pontiac facility is fueled exclusively by natural gas. Given the amounts of natural gas consumed from December 2001 – May 2002, it would appear that the Pontiac facility is using natural gas to generate electricity to sell at the retail rate. Staff believes this violates the requirements of Section 8-403.1.

### **Delinquent reports**

In addition to the above concerns, RTC has failed to file reports required by the order in which the Commission made the determination that the subject facilities qualified for QSWEF status. The order in Dockets 97-0031 to 97-0045 consolidated requires RTC to file bi-annual reports detailing the development of all energy producing facilities owned or operated by RTC and to file a report annually detailing the state of the reimbursement fund and its progress toward paying off its capital costs of indebtedness incurred in developing the facilities. As of the date of this report, RTC has failed to comply with the filing requirements of that order.

Respectfully submitted this 9th day of July , 2002.

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Energy Division